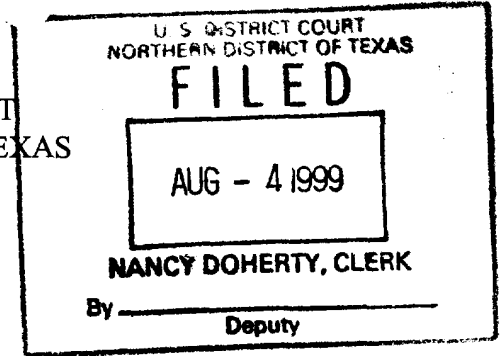


VCT  
ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



J. KEITH ROSE, M.D.,  
*Plaintiff,*

v.

UNIVERSITY OF TEXAS SOUTHWESTERN  
MEDICAL SCHOOL AT DALLAS; ROD J.  
ROHRICH, M.D.; FRITZ E. BARTON, M.D.;  
A. JAY BURNS, M.D.; H. STEVE BYRD, M.D.;  
DONNELL F. JOHNS, PH.D.; PHILIP L. KELTON,  
JR., M.D.; JEFFREY M. KENKEL, M.D.;  
WILLIAM ADAMS, M.D.; SCOTT N. OISHI,  
M.D.; HARRY H. ORRENSTEIN, M.D.; SAM  
BERAN, M.D.; and ILDIKO GYIMESI, M.D.,  
*Defendants.*

3-99CV1754-G  
CIVIL ACTION NO.

**NOTICE OF REMOVAL**

NOW COMES Defendants UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL SCHOOL AT DALLAS; ROD J. ROHRICH, M.D.; FRITZ E. BARTON, M.D.; A. JAY BURNS, M.D.; H. STEVE BYRD, M.D.; PHILIP L. KELTON, JR., M.D.; JEFFREY M. KENKEL, M.D.; WILLIAM ADAMS, M.D.; HARRY H. ORRENSTEIN, M.D.; SAM BERAN, M.D. AND ILDIKO GYIMESI, M.D. and respectfully shows that:

1. **Removal Provision:** This removal is pursuant to 28 U.S.C. § 1441(a). Plaintiff alleges that he was terminated from his residency by Defendants in violation of his due process rights under 42 U.S.C. § 1983. As such, Plaintiff's complaint contains a claim within the original jurisdiction of this Court.

2. **State Action:** This action was originally filed in the 160th Judicial District Court of Dallas County, Texas on June 29, 1999 in Cause No. 99-04685. Plaintiff is J. Keith Rose, M. D.. Defendants is UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL SCHOOL AT DALLAS; ROD J.

ROHRICH, M.D.; FRITZ E. BARTON, M.D.; A. JAY BURNS, M.D.; H. STEVE BYRD, M.D.; PHILIP L. KELTON, JR., M.D.; JEFFREY M. KENKEL, M.D.; WILLIAM ADAMS, M.D.; HARRY H. ORRENSTEIN, M.D., SAM BERAN, M.D. AND ILDIKO GYIMESI, M.D.. Venue is proper in the United States District Court for the Northern District of Texas, Dallas Division.

3. **Nature of the Lawsuit:** Plaintiff alleges that he was terminated from his residency in plastic surgery at a state university without due process. Plaintiff alleges that Defendant is in violation of 42 U.S.C. § 1983 and various state law claims.

4. **Jury Demand:** Plaintiff has requested a trial by jury within his original petition.

5. **Removal Requirements of § 1441:** Plaintiff's allegations regarding violations of his due process rights under 42 U.S.C. § 1983, a claim within the original jurisdiction of this Court. Plaintiff also alleges state causes action of defamation, tortious interference of business relations and intentional infliction of emotional distress.

6. **Compliance with Deadline:** The pleading which alleges violations of due process under 42 U.S.C. § 1983 was served on Defendants University of Texas Southwestern Medical Center at Dallas, and Drs. Sam Beran, Philip Kelton and Harry Orrenstein on July 8, 1999. Defendant has thirty (30) days in which to remove. Therefore, this removal is timely. Defendant's Answer to Plaintiffs' Original Petition was filed in state court.

7. **State Court Pleadings:** A true and correct copy of all process and pleadings served upon Defendant in the state court action is being filed with this notice as required by 28 U.S.C. § 1446(a). The docket sheet has been requested.

ACCORDINGLY, Defendant prays that this cause be removed to the United States District Court for the Northern District of Texas, Dallas Division, pursuant to §1441 of Title 28 of the United States Code.


Respectfully submitted,

JOHN CORNYN  
Attorney General of Texas

ANDY TAYLOR  
First Assistant Attorney General

LINDA S. EADS  
Deputy Attorney General for Litigation

TONI HUNTER  
Chief, General Litigation Division

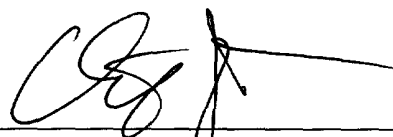
  
CHRISTOPHER JOHNSEN  
Texas Bar No. 00784341  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
(512) 463-2120  
(512) 320-0667 FAX

ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing instrument has been sent by Certified Mail-Return Receipt Requested, on August 2, 1999, to:

James H. Baumgartner, Jr.  
Vial, Hamilton, Koch & Knox  
1717 Main Street, Suite 4400  
Dallas, Texas 75201-7388

  
CHRISTOPHER JOHNSEN  
Assistant Attorney General